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Debtor.

Case No. -EWH

Adv. No.

V.

Defendant,

NOTICE OF SCHEDULING CONFERENCE AND ORDER RE: RULES OF PROCEDURE

IT IS HEREBY ORDERED:

1. Pursuant to Bankruptcy Rule 7016, the parties are to appear at a Scheduling Conference not to exceed 15 minutes on_____ at_____ .m. at the United States Bankruptcy Court, James A. Walsh Courthouse, 38 South Scott Avenue, Courtroom 446, Tucson, Arizona 85701.
2. Except as modified or limited by this Order or by further order of the court at the Scheduling Conference, the Federal Rules of Civil Procedure 26 through 37 (as amended 1993), made applicable to his proceeding by Rules of Bankruptcy Procedure 7026 through 7037, shall apply to all discovery in this proceeding.

1 3. The parties shall hold their initial meeting pursuant to Rule 26(f) no later than **fourteen**
2 **days prior** to the Scheduling Conference ordered hereby. At the parties' discretion and where
3 appropriate, this meeting may be held telephonically.

4
5 4. The parties shall make the initial disclosures required by Rule 26(a) and the file the
6 discovery plan required by Rule 26(f) not later than **ten days following** the Rule 26(f) meeting
7 held pursuant to paragraph 3 of this Order.

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9 5. At the Scheduling Conference, after consultation with the parties, and considering the
10 nature of the claims to be resolved, the Court will decide whether further compliance with Rules
11 of Civil Procedure 26(a), (d), (e)(1), and (g)(1) is necessary or appropriate in this proceeding. If
12 further compliance is excused, limited or conditioned, the Court will enter such further
13 scheduling orders at the Scheduling Conference as may be appropriate in the circumstances.

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15 6. If a trial is required for taking evidence, the dates for discovery cut off, exchanging lists of
16 witnesses and copies of all exhibits, filing the joint pretrial statement and when the parties will
17 be ready for the trial and the amount of time requested for trial will be discussed at the
18 Scheduling Conference. Counsel are to have access to such information as they deem necessary
19 to advise the Court of the reasonableness and convenience of the trial setting. The court may set
20 the matter for trial at the Scheduling Conference.

21
22 7. Unless the Court orders otherwise, no later than **2 weeks prior** to any trial, the parties are
23 to file and exchange any witness lists and copies of all exhibits to be utilized at the trial,
24 including impeachment evidence, regardless of what additional discovery is conducted. Except
25 when exhibits are few in number, exhibits shall be brought to court marked, in tabbed and
26 indexed exhibit books at the time of commencement of any trial. The Court requires at least one

original exhibit book, which the witness may use during testimony, one bench copy, and one copy for opposing counsel.

8. Pursuant to Rule 37(c), any witnesses and exhibits not timely disclosed, will not be heard or admitted into evidence. The joint pretrial statement must be filed **ten days prior** to trial. The failure of any party to cooperate in and/or timely comply with these procedures may result in the imposition of sanctions against such party and/or the attorney for such party. A sample form of joint pretrial statement is attached to this order.

9. Pursuant to Rule 611(a) of the Federal Rules of Evidence, direct testimony of all or some of the witnesses may be submitted by declaration. The following procedures will govern submission of testimony by declaration:

- A. All declarations will be made under penalty of perjury and will be subject to the Federal Rules of Evidence.
- B. If a witness' testimony is submitted by declaration, the witness must be available at trial to be cross examined by the other parties unless the other parties waive such appearance and the Court approves such waiver.
- C. If a witness' direct testimony is submitted by declaration, the only live testimony such witness may give will be limited to rebuttal testimony.
- D. If a part of a witness' declaration concerns an exhibit to be admitted into evidence at trial, the exhibit must be attached to the declaration.
- E. If a party intends to present the witness' testimony by a transcript of a deposition, a detailed summary of the testimony must be submitted with the transcript.
- F. Notwithstanding the parties' agreement that a witness' testimony will be submitted by declaration, the Court may require any witness' testimony to be

provided by direct examination. The Court will timely notify the parties if a witness' testimony may not be submitted by declaration.

G. Time for filing declaration and objections to declarations:

- 1) All declarations **must be** filed with the Joint Pre-Trial Statement.
- 2) All evidentiary objections to declarations must be filed **five (5) calendar days before** trial.
- 3) The Court will rule on evidentiary objections to the declarations at the time of trial.
- 4) After the Join Pre-Trial Statement is submitted, no other declarations will be allowed except by order of the Court.

Dated:

HONORABLE EILEEN W. HOLLOWELL
UNITED STATES BANKRUPTCY JUDGE

Copy mailed _____ to:

Pltf Atty:

Def Atty:

By: _____
Deputy Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re)	Chapter [] Proceedings
)	
[Name of Debtor(s)])	Case No. [case no]-EWH
)	
Debtor[s].)	
<hr/>		
)	
[Name of Plaintiff(s)])	Adversary No. []
)	
Plaintiff[s],)	
)	
vs.)	--SAMPLE--
)	JOINT PRE-TRIAL STATEMENT
[List all Defendant(s)])	
)	Trial Date: 00/00/20__
Defendant[s].)	Trial Time: 00:00 __.m.
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The Plaintiff(s) and Defendant(s) hereby submit this Joint Pre-trial Statement with respect to the Complaint for _____ commenced in the above-captioned proceeding.

Concise Statement of the Nature of the Action

Statement of Jurisdiction

Statement of Uncontested Issues of Material Fact

Statement of Contested Issues of Material Fact

Statement of Contested Issues of Law

List of Exhibits To Be Offered At Trial and Objections

List of Witnesses To Be Called At Trial

Dated this ____ day of _____, 20__.

Counsel for Plaintiff(s)

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Counsel for Defendant(s)